CHARLES ELMORE CROPLEY
CLERK

Supreme Court of the United States

(To the United States Court of Appeals
for the Eighth Circuit.)

342 U.S.
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No. 327.

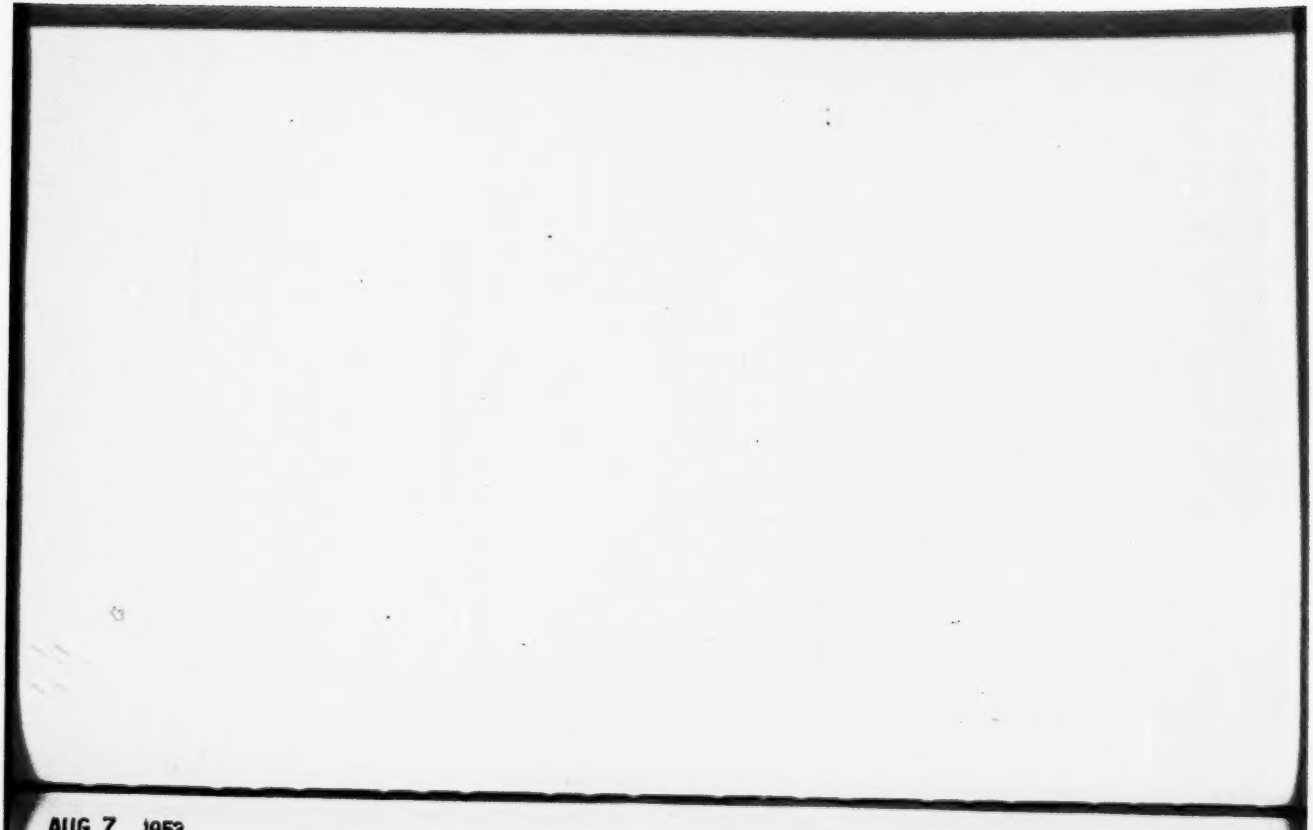
UNITED STATES OF AMERICA AND HAROLD R. LOVE,
Petitioners-Appellants Below,

vs.

DAVID W. ONAN ET AL.,
Respondents-Appellees Below.

PETITION FOR A WRIT OF CERTIORARI TO THE APPELLATE COURT.

HAROLD R. LOVE,
P. O. Box 613,
Minneapolis 1, Minnesota.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AUG 7 1953

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Supreme Court of the United States

(To the United States Court of Appeals for the Eighth Circuit Nos. 14,234 and 14,291.)

No. _____.

UNITED STATES OF AMERICA AND HAROLD R. LOVE,
Petitioners-Appellants Below,

vs.

DAVID W. ONAN ET AL.,
Respondents-Appellees Below.

PETITION FOR WRIT OF CERTIORARI.

To the Honorable Fred M. Vinson, Chief Justice, and the Honorable Associate Justices of the Supreme Court of the United States.

Your petitioners respectfully show

SUMMARY STATEMENT OF MATTER INVOLVED.

1. This petition involves a judgment of the United States Court of Appeals, for the Eighth Circuit, at St. Louis, Missouri, rendered June 20, 1951, and a Petition for Rehearing, denied by Order of that court on July 11, 1951 (190 F. 2d 1), which reviewed orders of restraint and in-

junction of the District Court of Minnesota, wherein both courts (a) determined an affidavit of prejudice should be rejected (b) wherein the appellate court raised a contention not previously appearing, that the suit instituted under Section 232, Title 31, U. S. C. A., must be brought only by, or with, an attorney at law, authorized to practice in the District Court, which, as far as can be ascertained has never been thought of before in any court.

2. The complaint involves a showing of false and fraudulent claims against the United States, damages and forfeitures in the sum of $1,256,536.00, and possible judgment, in favor of the United States of $2,525,072.00, including an interest of Harold R. Love, as provided by Section 232, Title 31, U. S. C. A.

3. Your petitioners contend, the determinations shown in paragraph No. 1, next above, are without foundation in fact or law, are contrary to law, or void for want of authority, and in violation of the rights of petitioners.

JURISDICTIONAL STATEMENT.

It is contended that the Supreme Court has jurisdiction to review the judgment in question, the petition for rehearing denied in the court below; because of the Act of Feb. 13, 1925, Chapter 220, 43 Stat. 936, as amended, and Section 1254, Title 28 (NEW), U. S. C. A.

STATUTES AND CASES RELIED ON.

The cases and statutes believed to sustain jurisdiction are:

Cases.

Berger v. *United States*, 255 U. S. 22.
Hurd v. *Letts*, 152 F. 2d 273.

Statutes.

Section 144, Title 28, U. S. C. A.
Section 1654, Title 28, U. S. C. A.
Rule 17(a), F. R. C. P., Title 28, U. S. C. A.
Section 232, Title 31, U. S. C. A.

QUESTIONS PRESENTED.

1. Was the affidavit of prejudice, filed against Judge Gunnar H. Nordbye, sufficient, timely filed, and did it contain the certificate as required of counsel having an interest of record, as referred to in Section 144, Title 28, U. S. C. A.?

2. Must a suit authorized in the name of the United States, be instituted by an attorney at law, authorized to practice in the court in which brought, and not otherwise?

THE CASE BRIEFLY STATED.

1. The petitioners contend the determinations shown in paragraph No. 1 hereinbefore, under "Summary Statement of Matter Involved" were erroneous.

2. In view of Section 232, Clauses (B) (C) and (E) (2) of Title 31, U. S. C. A., Section 1654, Title 28, U. S. C. A., and Rule 17 (a) of the Rules of Federal Civil Procedure, for the U. S. District Court, the persons who brought the suit, have a statutory interest therein, and the

right to act solely as their own counsel as laymen, and conduct the suit personally, without an attorney at law, for themselves as well as the United States of America, in order to establish their interest therein.

REASONS RELIED ON FOR THE ALLOWANCE OF WRIT.

1. The lower court has decided important questions of federal law in a way in conflict with statutes made and provided relative thereto; in a way probably in conflict with an applicable decision of this court, and has so far departed from the accepted and usual course of judicial proceedings and sanctioned such departure by a lower court, as to call for the exercise of this court's power of supervision.

2. These reasons are supported by the record, and as indicated in the opinion of this court in the case of *Berger* v. *United States,* 255 U. S. 22, 41 S. Ct. 230, 65 L. Ed. 481; Section 1654, Title 28, U. S. C. A., Rule 17 (a), F. R. C. P., Section 232, Title 31, U. S. C. A., and Section 144, Title 28, U. S. C. A.

POINTS RELIED ON—ASSIGNMENT OF ERRORS.

1. That the court below erred in rejecting the affidavit of prejudice, filed against Judge Gunnar H. Nordbye, for the said affidavit was sufficient, timely filed, and contained a certificate of those having an interest in said suit acting for themselves and the United States.

2. That the court below erred in ruling that this suit authorized by Section 232, Title 31, U. S. C. A., must be instituted only by, or with, an attorney at law, admitted to practice in the District Court.

PRAYER FOR WRIT.

Wherefore, your petitioners pray, that a Writ of Certiorari, under seal of this court, be directed to the United States Court of Appeals, for the Eighth Circuit, at St. Louis, Missouri, commanding said court to certify and send to this court, a full transcript of the record and proceedings of the said lower court, as designated by the parties thereto, had in Dockets Nos. 14,234 and 14,291, entitled United States of America, H. M. Roberts and H. R. Love, Plaintiffs-Appellants, vs. David W. Onan *et al.*, Defendants-Appellees, to the end that this cause may be reviewed and determined by this court, as provided by the statutes of the United States, and that judgment herein of the said court of appeals, be reversed by this court, and for such other or further relief, as to this court may seem just and proper.

(Signed) HAROLD R. LOVE,
Petitioner, for Himself and the
United States of America.

Minneapolis, Minnesota.